

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Media General Broadcasting of South Carolina)	Facility I.D. No. 3359
Holdings, Inc.)	NAL/Acct. No. 0741420033
Licensee of Station WRBL(TV))	FRN: 0002207520
Columbus, Georgia		

**NOTICE OF APPARENT
LIABILITY FOR FORFEITURE**

Adopted: May 11, 2007

Released: May 16, 2007

By the Chief, Video Division, Media Bureau:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture* ("NAL") issued pursuant to Section 503(b) of the Communications Act of 1934, as amended (the "Act"), and Section 1.80 of the Commission's Rules (the "Rules"),¹ by the Chief, Video Division, Media Bureau pursuant to authority delegated under Section 0.283 of the Rules,² we find that Media General Broadcasting of South Carolina Holdings, Inc. (the "Licensee"), licensee of Station WRBL(TV), Columbus, Georgia (the "Station"), apparently willfully and repeatedly violated Section 73.3526(e)(5), (e)(11)(i), and (e)(11)(ii) of the Rules, by failing to place in the Station's public inspection file its 2003 Biennial Ownership Report, and all required TV issues/programs lists and records concerning compliance with the children's programming commercial limits.³ We also find that the Licensee apparently violated Section 73.3526(e)(11)(iii) of the Rules, by failing to publicize the existence and location of its Children's Television Programming Reports and Section 73.673 by failing to provide to publishers of program guides information identifying programming specifically designed to educate and inform children. Based upon our review of the facts and circumstances before us, we conclude that the Licensee is apparently liable for a monetary forfeiture in the amount of twenty thousand dollars (\$20,000).

II. BACKGROUND

2. Section 73.3526 of the Rules requires a commercial broadcast licensee to maintain a public inspection file containing specific types of information related to station operations.⁴ Subsection 73.3526(e)(11)(i) provides that a TV issues/programs list is to be placed in a commercial TV broadcast station's public inspection file each calendar quarter. In addition, pursuant to subsection 73.3526(e)(11)(ii), each commercial television broadcast station is required to place in its public inspection file, on a quarterly basis, records sufficient to allow substantiation of the licensee's certification, in its renewal application, of its compliance with the children's television commercial limits

¹ 47 U.S.C. § 503(b); 47 C.F.R. § 1.80.

² See 47 C.F.R. § 0.283.

³ See 47 C.F.R. §§ 73.3526(e)(5), 73.3526(e)(11)(i), and 73.3526(e)(11)(ii).

⁴ See 47 C.F.R. § 73.3526.

imposed by Section 73.670 of the Rules.⁵ Moreover, subsection 73.3526(e)(11)(iii) of the Rules requires each commercial television broadcast station to prepare and place in its public inspection file a Children's Television Programming Report (FCC Form 398) for each calendar quarter reflecting, *inter alia*, the efforts it has made during the quarter to serve the educational needs of children. These subsections of Section 73.3526 require licensees to place TV issues/programs lists, records concerning commercial limits for each quarter, and Children's Television Programming Reports in the station's public inspection file by the tenth day of the succeeding calendar quarter. As set forth in subsection 73.3526(e)(11)(iii), licensees are also required to file the Children's Television Programming Reports with the Commission and to publicize the existence and location of the reports. Further, licensees are required to provide to publishers of program guides, information identifying programming specifically designed to educate and inform children, including an indication of the age group for which the program is intended.⁶ Finally, subsection 73.3526(e)(5) requires each licensee of a commercial broadcast station to place in the public inspection file for its station, a copy of the most recent, complete Ownership Report filed with the Commission biennially.

3. On December 1, 2004, the Licensee filed its license renewal application (FCC Form 303-S) for Station WRBL(TV) (the "Application") (File No. BRCT-20041201BZP). In Exhibit 25, the Licensee indicated that it did not publicize the existence and location of the Station's Children's Television Programming Reports. The Licensee indicated that upon discovery of this omission, it took steps to publicize the existence and location of the Station's Children's Television Programming Reports in October 2004. In addition, the Licensee stated that during preparation of the Application, it determined that it had not provided information identifying each core program aired on the station as core programming to program guide publishers.⁷ The Licensee claimed that it began providing this information in August 2004.

4. In response to Section IV, Question 3 of the Application, the Licensee stated that, during the previous license term, it had failed to timely place in its public inspection file all of the documentation required by Section 73.3526 of the Rules. In Exhibit 17, it indicated that in preparing its Application, it discovered that the TV issues/programs lists for the second quarter of 2002 through the second quarter of 2004 had not been prepared or placed in the Station's public file. In addition, the Licensee reported that records concerning compliance with the children's programming commercial limits for 13 quarters and the 2003 Biennial Ownership Report were missing from the public file. The Licensee claimed that copies of all missing records have been placed in the public inspection file.

III. DISCUSSION

5. The Licensee's failure to publicize the existence and location of the Children's Television Programming Reports and to provide to publishers of program guides with all required information constitutes apparent willful and repeated violations of Sections 73.3526(e)(11)(iii) and 73.673. Moreover, the Licensee's failure to place in its WRBL(TV) public inspection file all of the required documentation constitutes an apparent willful and repeated violation of Sections 73.3526(e)(5), 73.3526(e)(11)(i), and 73.3526(e)(11)(ii).

6. This *NAL* is issued pursuant to Section 503(b)(1)(B) of the Act. Under that provision, any person who is determined by the Commission to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the

⁵ 47 C.F.R. § 73.670. This rule limits the amount of commercial matter that a commercial television station may air during children's programming to 10.5 minutes per hour on weekends and 12 minutes on weekdays.

⁶ See 47 C.F.R. § 73.673.

⁷ 47 C.F.R. § 73.673.

United States for a forfeiture penalty.⁸ Section 312(f)(1) of the Act defines willful as “the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate” the law.⁹ The legislative history to Section 312(f)(1) of the Act clarifies that this definition of willful applies to both Sections 312 and 503(b) of the Act,¹⁰ and the Commission has so interpreted the term in the Section 503(b) context.¹¹ Section 312(f)(2) of the Act provides that “[t]he term ‘repeated,’ when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.”¹²

7. The Commission’s *Forfeiture Policy Statement* and Section 1.80(b)(4) of the Rules establish a base forfeiture amount of \$10,000 for violation of Section 73.3526 and a base forfeiture amount of \$8,000 for violation of Section 73.673.¹³ In determining the appropriate forfeiture amount, we may adjust the base amount upward or downward by considering the factors enumerated in Section 503(b)(2)(D) of the Act, including “the nature, circumstances, extent and gravity of the violation, and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.”¹⁴

8. In this case, the Licensee conceded that it failed to publicize the existence and location of the Station’s Children’s Television Reports and that it failed to identify to program guide publishers each core program as core programming during the license term. Moreover, the Licensee reported that numerous required documents were missing from the public inspection file. Accordingly, we find that the Licensee is apparently liable for a forfeiture in the amount of \$20,000 for its apparent willful and repeated violations of Sections 73.3526(e)(5), (e)(11)(i)-(iii), and 73.673.

IV. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Section 1.80 of the Commission’s Rules, that Media General Broadcasting of South Carolina Holdings, Inc. is hereby NOTIFIED of its APPARENT LIABILITY FOR FORFEITURE in the amount of twenty thousand dollars (\$20,000) for its apparent willful and repeated violations of Sections 73.3526(e)(5), (e)(11)(i)-(iii), and 73.673 of the Commission’s Rules.

10. IT IS FURTHER ORDERED, pursuant to Section 1.80 of the Commission’s Rules, that, within thirty (30) days of the release date of this *NAL*, Media General Broadcasting of South Carolina Holdings, Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

11. Payment of the proposed forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the *NAL*/Acct. No. and FRN No. referenced above. Payment by check or money order may be mailed to Federal

⁸ 47 U.S.C. § 503(b)(1)(B); *see also* 47 C.F.R. § 1.80(a)(1).

⁹ 47 U.S.C. § 312(f)(1).

¹⁰ *See* H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982).

¹¹ *See Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991).

¹² 47 U.S.C. § 312(f)(2).

¹³ *See Forfeiture Policy Statement and Amendment of Section 1.80(b) of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17113-15 (1997) (“*Forfeiture Policy Statement*”), *recon. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80(b)(4), note to paragraph (b)(4), Section I.

¹⁴ 47 U.S.C. § 503(b)(2)(D); *see also Forfeiture Policy Statement*, 12 FCC Rcd at 17100-01; 47 C.F.R. § 1.80(b)(4); 47 C.F.R. § 1.80(b)(4), note to paragraph (b)(4), Section II.

Communications Commission, at P.O. Box 358340, Pittsburgh, Pennsylvania 15251-8340. Payment by overnight mail may be sent to Mellon Bank/LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, Pennsylvania 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6229.

12. The response, if any, must be mailed to Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Barbara A. Kreisman, Chief, Video Division, Media Bureau, and MUST INCLUDE the NAL/Acct. No. referenced above.

13. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the respondent submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the respondent's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

14. Requests for full payment of the forfeiture proposed in this *NAL* under the installment plan should be sent to: Associate Managing Director- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.¹⁵

15. IT IS FURTHER ORDERED that copies of this *NAL* shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Media General Broadcasting of South Carolina Holdings, Inc., 333 East Franklin Street, Richmond, Virginia 23219, and to its counsel, M. Anne Swanson, Esquire, Dow, Lohnes & Albertson, PLLC, 1200 New Hampshire Avenue, N.W., Suite 800, Washington, D.C. 20036.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

¹⁵ See 47 C.F.R. § 1.1914.